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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,681	10/11/2001	John D. Haley	2001P13207 US01	9430

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EXAMINER
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ART UNIT	PAPER NUMBER
2192	

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Advisory Action *Before the Filing of an Appeal Brief*	09/975,681	HALEY ET AL.
	Examiner	Art Unit	
	Ted T. Vo	2192	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>09 February 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *13 and 16*.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-12, 14, 15, 17-19*.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Note.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

TED T. VO
primary Examiner

Note:
Applicants' request for consideration given in the Remarks has been fully reviewed. Claims 13 and 16 are amended in response to Allowable Subject Matter; these claims will be allowed.
- Regarding the arguments in the remarks filed on 2/19/05, particularly, in the section of page 9 and up to line 21 of page 10: While Applicants maintain the claims as broad as recited, and mention no specific claims in this section, they argued that the rejection given in the prior Final Office Action as that the rejection fundamentally miss-understands and is miss-interpreted (Remarks, see page 9 and lines 1-21 of page 10). The arguments address to no specific Claims; however, the content of the arguments fundamentally repeated what already raised and responded in Final Office Action (See Prior final action). Particularly, the arguments are that Neilsen's elements 260, 265, and 470 of figures 2-4 do not show or suggest data items for incorporation in an expression, and that Nielsen provides user selectable options enabling selection of a directory or library to be searched to determine the scope of search (Remarks page 9, first paragraph). These arguments were responded/addressed in the Examiner's rationales in prior Final Office Action (See Final Office Action, particularly see section Response to Argument, pages 2-3 and page 4, lines 8-16). Furthermore, when Applicants repeat their argument, "use of a customizable expression" to "allow users to define formulas for calculating rates of reimbursement" (remarks, page 10, first full paragraph), this argument has been responded in Final Office Action, page 4, started at line 17. Moreover, this argument admitted that the EXPRESSION is a user' input (customizable). And it should be noted that the windows shown in Nielsen's Figures 2-4 are text-inputted, it permits customizable expression entered by users within given operations.

- Regarding Applicants' arguments to Claim 14 (Remarks: Last paragraph of page 10 and line 1-21 of page 11). It should be noted that Claim 14 was previously amended, where the claimed recitation is fundamentally the same as Claim 1. However, Claim 14 with the limitation "comprise predetermined data items and associated predetermined allowable values for corresponding predetermined data item", which is different from the recitation "a resultant expression used for calculating a result value" previously amended in Claims 1, 17, and 19 (See prior final action's rationales), is found as applicable by Nielsen's reference under 35 U.S.C 102. Applicants' arguments to Claim 14 in pages 10 and 11 are in the similar manner to their pervious arguments applicable to Claim 1 (See prior action). For example, Applicants repeats their arguments that Nielsen that GOOD BOY, GOOD GIRL, etc, are user entered and not selectable from First image window" (Remarks: page 10, line 33-37). However, Examiner already responded in Final action, page 4, lines 3-7, and the rationale associated with the rejection applied to Claim 14. Applicants further contend that "Good Boy" or "Good Girl" is the text entry treated as a literal (page 11, lines 1-8). It should be noted that Applicants' expression entered in the their text-input window, is also the text entry and it is a literal. It should be also noted that as they admitted in this remarks, "customizable expression". It should be noted that the Nielsen's terms, "Good Boy", "Good Girl", and/or "Bad Dog", are/or also type-predetermined (type: BOY, GIRL, DOG, etc), and predetermined allowable values (based on expression, result values include: good BOY, good GIRL, bad DOG) because the user knows (predetermines) it would be in the library directory. These terms are similar to many search scope, such as 'author', 'title', 'subject', incorporated with operators AND OR + - * /, and acts like a variable/parameter/operations when a script/applet as disclosed within Nielsen's reference can capture these inputs as parameter arguments and process its under computer operations.

- Regarding Applicants' arguments to the Claims 1-12, 15, 17-19, rejected under 35 USC 103(a) (Remarks: pages 11-18), particularly, the arguments are that the Netscape in chapter 9 fails to show or suggest a resultant expression used for calculating a result value (remarks page 13, lines 1-9). All Applicants' arguments in this section have been considered. However, all arguments are far from Examiner citation or Netscape suggestion: that is Netscape's definition of expression including showing the operators in tables 9.1 and 9.4 have suggested the common operators AND, OR, NOT, +, -, *, / ; these operators when included in an expression would perform, "calculating a result value".
It should be noted that Nielsen's disclosure shows only AND, OR, NOT operators. However, claiming "calculating a result value" as amended in Claim 1-12, 15, 17-19, it has extended the operations with the requirement of arithmetic operators, +, -, *, /. The operations that perform "calculating a result value" are only using such common operators shown within Netscape or used/provided by any computer operating system and computer languages. The operators AND, OR, NOT, +, -, *, /, as shown in Netscape are known by ordinary in the art. The Netscape reference thus clearly shows and suggests the motivation for combining.

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